

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

MARCELINO CAMACHO and MARIA  
CAMACHO,

Plaintiffs,

v.

NATIONAL CREDIT ADJUSTMENT  
AGENCY, et al.,

Defendants.

No. CV-06-5040-FVS

ORDER DISMISSING  
REMAINING CLAIMS WITH  
PREJUDICE

**THIS MATTER** came before the Court on March 15, 2011, for resolution of two issues. One issue was whether the attorneys for the plaintiffs should be sanctioned as a result of their failure to participate in a hearing that was to have taken place on January 18, 2011. The other issue was whether the Court should dismiss the plaintiffs' remaining claims. This order serves to memorialize the Court's oral rulings.

**BACKGROUND**

National Credit Adjustment Agency allegedly attempted to collect a debt that was owed by Marcelino Camacho and Maria Camacho. Attorney Gary C. Hugill allegedly represented National Credit Adjustment Agency in its debt-collection efforts. The Camachoes sued the company, Mr. Hugill, and his spouse under the Fair Debt Collection Practices Act. In addition, the Camachoes sued Luis A. Ojeda, who owned the company,

1 Olga Ojeda-Turnbull, who worked for the company, and their respective  
2 spouses. Faced with the Camachoes' claims, National Credit Adjustment  
3 Agency filed a cross-claim against Mr. Hugill and his spouse. The  
4 company alleged Mr. Hugill negligently represented its interests in  
5 the debt-collection action against the Camachoes. During September or  
6 October of 2008, the Camachoes settled their claims against Luis A.  
7 Ojeda, Olga Ojeda-Turnbull, and their respective spouses. Two months  
8 later, National Credit Adjustment Agency petitioned for relief under  
9 Chapter 7 of the Bankruptcy Code. The bankruptcy court appointed  
10 attorney Terry Nealey as the trustee for the bankruptcy action. Given  
11 the existence of the automatic stay, the plaintiffs' claims against  
12 National Credit Adjustment Agency remained dormant until the Fall of  
13 2010. During October of that year, the Court asked counsel to explain  
14 why the Court should not dismiss any remaining claims in this case.  
15 Ultimately, a telephonic status-review hearing was scheduled for  
16 January 18, 2011. Counsel for the plaintiffs did not participate in  
17 the telephone call, so the Court canceled the hearing and ordered the  
18 plaintiffs' attorneys to show cause why they should not be sanctioned.  
19 A hearing took place on March 15, 2011. The plaintiffs were  
20 represented by Michael D. Kinkley and Scott M. Kinkley. Defendant  
21 Gary C. Hugill represented himself. Bankruptcy trustee Terry Nealey  
22 was represented by Scott Marinella. Michael Kinkley explained that he  
23 had failed to participate in the January 18th hearing because of a  
24 hearing in Spokane County Superior Court. The state hearing was  
25 delayed. Focused, as he was, on the state hearing, he forgot about  
26

1 the federal hearing until he returned to his office. After January  
2 18th, he was able to contact his clients regarding their remaining  
3 claims. They advised him they no longer desire to pursue them.  
4 Consequently, on March 15th, Mr. Kinkley and his co-counsel filed a  
5 motion to dismiss on behalf of the plaintiffs. At the hearing on  
6 January 18th, both Mr. Hugill and Mr. Marinella consented to dismissal  
7 of the plaintiffs' remaining claims against National Credit Adjustment  
8 Agency. (The claims against Mr. Hugill were discharged in a separate  
9 bankruptcy proceeding.)

10 **IT IS HEREBY ORDERED:**

11 1. The Court declines to sanction counsel for the plaintiffs.  
12 However, within 30 days, Michael Kinkley shall make a donation of two  
13 hundred fifty (\$250.00) dollars to the charity of his choice and  
14 provide a receipt to the District Court Executive.

15 2. The plaintiffs' "Motion to Dismiss" (Ct. Rec. 148) is **granted**.

16 3. All remaining claims in this case are dismissed with  
17 prejudice.  
18

19 **IT IS SO ORDERED.** The District Court Executive is hereby  
20 directed to file this order, enter judgment accordingly, furnish  
21 copies to counsel, and close this case.

22 **DATED** this 15th day of March, 2011.

23 s/ Fred Van Sickle  
24 Fred Van Sickle  
25 Senior United States District Judge  
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